

**CITY OF MORGAN HILL
JOINT SPECIAL CITY COUNCIL AND
SPECIAL REDEVELOPMENT AGENCY MEETING
MINUTES – APRIL 30, 2003**

CALL TO ORDER

Mayor/Chairperson Kennedy called the meeting to order at 5:00 p.m.

ROLL CALL ATTENDANCE

Present: Council/Agency Members Carr, Chang, Sellers, Tate, and Mayor/Chairperson Kennedy

DECLARATION OF POSTING OF AGENDA

City Clerk/Agenda Secretary Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2

City Council Action

OTHER BUSINESS:

1. LIBRARY AND PARKS AND RECREATION COMMISSION INTERVIEWS

Council Services and Records Manager Torrez presented the staff report.

The City Council concluded their interviews of applicants wishing to serve on the Library and Parks & Recreation Commission and ranked each respective applicant.

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Chang, the City Council unanimously (5-0), **Ratified the Mayor's appointment** of the following four individuals to the Library Commission to serve terms expiring April 1, 2005: Jeanne Gregg, George Nale, Ruth Phebus, and Kathleen Stanaway.*

Action: *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Chang, the City Council unanimously (5-0), **Ratified the Mayor's appointment** of the following three individuals to the Parks and Recreation Commission to serve terms expiring April 1, 2005: Laura Hagiperos, Rick Page, and Craig van Keulen .*

Council Member Tate stated that he supported all incumbent commissioners because both the Library and Parks & Recreation Commissions are implementing respective plans. He stated that every candidate for both bodies were absolutely outstanding. He could not replace existing commissioners because they were doing an excellent job. It is his hope that the individuals that applied for the Parks & Recreation Commission who were not appointed continue to keep the City in mind.

Mayor Kennedy felt that it made sense to expand the Library Commission to take advantage of all of the talent and the work that has been done.

In response to Mayor Kennedy's question, City Manager Tewes stated that it would result in more staff time to support additional commissioners. However, this should not be considered a reason to not expand the commission. He noted that at the goal setting session, the Council asked staff to prepare a workshop on cultural arts/arts program. He felt that in the back of many individuals' minds there was thought of assigning responsibilities to an arts commission or an arts 501c3 non profit corporation.

Council Member Sellers stated that there are several subcommittees that are currently addressing the aquatics complex and the indoor recreation center. He felt that the creation of other commissions was an alternative he would like to actively consider appointing these applicants to. He noted that the Council discussed having community members on the indoor recreation subcommittee. He agreed that the Council should keep continuity when you have good members serving on commissions. He stated that appointments never gets easier as the City continues to receive outstanding applicants and that it was incumbent upon the Council to utilize these applicants.

Mayor Kennedy supported the idea of appointing some of these individuals to work on the Library Building or the Indoor Recreation Center Subcommittees.

Council Member Sellers recommended that the Council allow the indoor recreation center subcommittee to get underway and then allow the Parks & Recreation Commission to appoint versus adding additional members to the Commission.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

PUBLIC COMMENT

Mayor/Chairperson Kennedy opened the floor to comments for items not appearing on this evening's agenda. No comments were offered.

City Council and Redevelopment Agency Action

Action: *It was the consensus of the City Council **to consider** agenda item 7 at this time.*

7. REQUEST TO CO-SPONSOR A "SUPPORT OUR TROOPS" EVENT AT THE COMMUNITY AND CULTURAL CENTER AMPHITHEATER

Mayor Kennedy indicated that he has received a request from Roger Salstrom for the City Council to co-sponsor a "Support Our Troops" event at the Community and Cultural Center Amphitheater.

Mayor Kennedy opened the floor to public comment.

Roger Salstrom stated that he would like to conduct a “Support Our Troops” community event, recognizing all military personnel. He indicated that this would be an hour event to be held at the Community and Cultural Center with the City picking up all of the costs relating to this event. In response to Council Member Tate’s questions, he indicated that Eddie Bower annually conducts a Memorial Day event at 9:00 a.m. He said that he would like to speak with Mr. Bower in order to coordinate both events.

Council Member Tate inquired why the City would want to hold multiple events on the same day.

Mr. Salstrom stated that he sees these two events as being entirely different.

Mayor Kennedy indicated that the Memorial Day event sponsored by Mr. Bowers is more a recognition of veterans who have lost their lives in previous wars. He noted that Mr. Salstrom’s proposed event is in support of those individuals currently serving in the military.

Mayor Pro Tempore Chang inquired as to the possibility of Mr. Salstrom and Mr. Bowers working together to conduct the event at the Community and Cultural Center or at the Memorial Square?

Mr. Salstrom felt that it would be possible to combine the events but that he has not spoken with Mr. Bowers about the event.

Council Member Tate stated that one advantage to tying the events together is having people attend one combined event versus choosing one event over the other.

Mr. Salstrom stated that he did not want to be in competition of a different function nor take away from the Memorial Day event.

Council Member Carr felt that it was a great idea to recognize the military troops. If there is a concern about conflicting with the Memorial Day recognition that takes place in the downtown, there may be another date that might be suitable for the Support Our Troops event. He confirmed that Mr. Bowers performs a recognition of veterans who have lost their lives on Memorial Day. He felt that it was important to remember the reason for Memorial Day. He expressed concern with the precedent that would be set should the Council sponsor events at the Community Center that could be sponsored at other venues. He noted that the Council received a report not too long ago that the City was way off target on the revenue side of the Community Center, noting that he raised this concern in the past. He acknowledged that the outdoor amphitheater is not a big expense or a dollar generating facility but that the Council would be setting a precedent by becoming co-sponsors to events. He noted that the September 11 recognition event was held at the civic center plaza and that it was a wonderful venue for this event. He felt that the Support the Troops rally could be done very nicely at the civic center, avoiding sponsoring an event at the community center and setting a precedent. He recommended that the Council think this through before moving forward.

Mr. Salstrom stated that any location to hold the event would be acceptable and felt that it was the event itself that was important.

Council Member Carr agreed that the City should be a co-sponsor of the event and that the City should help organize and put the event together but that it was the venue that was of concern.

Mayor Kennedy recommended that the Council agree to be a co-sponsor to the event but requested that Mr. Salstrom coordinate the details, time and place of the event with Mr. Bower.

Council Member Sellers felt that the concept was sound but that there were a lot of details that need to be made clear, noting that the Council is still working through the details associated with the use of the Community and Cultural Center. He stated that he was in support of the concept but recommended that the details be worked out to make sure that there are no conflicts.

Mayor Kennedy stated that the event could be held at the Community and Cultural Center but that the details need to be worked out, working with City staff. He indicated that he would work with Mr. Salstrom as well.

Mayor Pro Tempore Chang stated that she supported the thought of holding this event at the Community and Cultural Center as it would be a shorter walk if the event is to be connected with the Memorial Day event. She felt that it would be appropriate to hold an event such as this at that the Community and Cultural Center.

Action: *Council Member Carr made a motion, seconded by Council Member Sellers **to co-sponsor** the event.*

Council Member Tate stated that he needs more details on where the event will be held as well as other information. Therefore, he would not be able to support the motion at this time.

Council Member Sellers stated that the Council is approving the concept of being a co-sponsor and that Mr. Salstrom will return with a plan; talking with Mr. Bowers and working with Recreation staff.

Council Member Carr recommended that this item be continued until the details are worked out.

Action: *Council Members Carr and Sellers **withdrew** their motion.*

Mayor Pro Tempore Chang stated that she would agree to work with Mr. Salstrom on this event.

Action: *On a motion by Council Member Tate and seconded by Council Member Sellers, the City Council unanimously (5-0) **continued** this item to May 7, 2003.*

City Council and Redevelopment Agency Action

CONSENT CALENDAR:

Council/Agency Member Carr requested that item 3 be removed from the Consent Calendar.

3. **SPECIAL AND REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF APRIL 16, 2003**

Council/Agency Member Carr inquired as to the intent of the vote found on page 77 (page 21 of the minutes), noting that the minutes reflect a 4-1-1 vote.

Action: *On a motion by Council/Agency Member Sellers, and seconded by Council/Agency Member Tate, the Council/Agency Board unanimously (5-0) **Approved** Consent Calendar Item 3, correcting the vote located on page 77 to read “3-1-1.”*

City Council Action

CONSENT CALENDAR:

Action: *On a motion by Council Member Sellers and seconded by Council Member Tate, the City Council unanimously (5-0), **Approved** Consent Item 4, as follows:*

4. **SPECIAL CITY COUNCIL MEETING MINUTES OF APRIL 23, 2003**

Action: **Approved** the minutes as written.

City Council and Redevelopment Agency Action

WORKSHOP

2. **DRAFT COMPREHENSIVE HOUSING STRATEGY**

Director of Business Assistance and Housing Services Toy presented the staff report. He indicated that Libby Seifel and Tammy Chuang, Seifel Consulting, would be helping to facilitate the workshop this evening. He requested that the Council identify priorities in terms of the programs being recommended and the allocation in terms of funding/income groups.

Ms. Seifel presented an overview of the housing strategy summary, income target, resource allocation (\$20 million), program recommendations, other recommended actions, opportunity sites (time permitting) and the next steps. She stated that she is recommending a 40% very low, 30% low and 30% moderate split, increasing the amount that would be spent on moderate income housing, and decreasing the amount spent on very low income housing in proportion to units. Also, being recommended is keeping the low units in approximately the same range. She requested Council/Agency comments on the housing distribution funding recommendation. She identified the resource allocation by the nine programs being described: 1) Affordable new ownership housing construction, 2) homeownership assistance for new or existing housing, 3) special needs housing, 4) affordable new rental housing construction, 5) rehabilitation, 6) transit oriented development/downtown affordable housing development, 7) land banking and site assembly, 8) affordable housing preservation, and 9) self help affordable homeownership.

1. **Affordable new ownership housing construction**

Agency/Council Member Sellers stated that in 1999-2001 there were 1.5 times as many above moderate units as there were moderate or below units. He felt that the City would be looking at almost a reversal with 140% of below and moderate units as opposed to above moderate units in the next 40 years. He felt that this was a significant change in terms of the City's focus and in terms of the development community and what might be anticipated. He said that well over half of the units were above moderate in the last three years and would be well over half in the next four years. He said that in each of the nine categories, there are policy considerations to be made. He felt that there were some areas that would make sense to emphasize moderate units in other ways.

Ms. Seifel indicated that the report does not address the private production of moderate income housing. The report only addresses assisted units for both rental and for sale units. The report focused on the homeownership opportunities toward moderate because the subsidy is less on a per unit basis. However, the self help category is focused on very low income homeownership opportunities through sweat equity programs. She indicated that it is being recommended that the Council continue its below market program (BMR), to encourage higher density housing types that are less expensive in new single families such as townhomes or slightly higher density configurations for homeownerships; to pursue a variety of forms of assistance to encourage the production of additional affordable homeownership, and to aide developers in securing funding assistance for all programs. She recommended that 40 units be focused toward moderate income (80% moderate and 20% low). The projected local subsidy per unit varies depending on how large the units are, their cost, and how they are produced.

Mr. Toy recommended allocations for low or moderate units in some type of mix that would meet the City's need to address some low, and yet targeting affordable housing toward moderate units to maximize the City's funds. Another policy consideration is whether the Council wants to target specific groups and continue to target teachers, police officers, and public employees or open up affordable housing community wide. Does the Council want to continue to provide funding to the Santa Clara Housing Trust?

Agency/Council Member Sellers said that it is difficult to afford a moderate home even for those who earn a moderate income. He felt that there were a lot of creative housing developments being developed in the County and elsewhere of higher density units. This affords homeownership and provides a much smaller scale project without all of the amenities that everyone grew up with. It is his hope that the youth in the community would return to Morgan Hill 6-8 years from now and afford to purchase a home. He recommended that the City look at high density. He said that the City is proposing to assist teachers and public safety officers but did not know if this should be the focus and recommended that the City/Agency expand the project. Regarding the Housing Trust fund, it was his belief that the Housing Trust has returned dollars. It was his also his belief that based on population, the City of Morgan Hill has contributed more funding than any other city in the County. He did not know whether the City should continue to contribute to the Housing Trust Fund as there are limited dollars.

Agency/Council Member Carr said that per capita, the City of Morgan Hill has invested the most in the Housing Trust Fund. He felt that the City of Morgan Hill was the only city that has some type of memorandum of understanding about these dollars returning to the community.

Executive Director/City Manager Tewes said that the City is using RDA dollars and that under Redevelopment Law; the City must show that the money is being used for projects within the project area.

Ms. Seifel requested that the Council advise whether the funding was too much or too little and whether the 80%/20% was the right split? She said that she would like specifics as she would like to finalize the numbers.

Council/Agency Member Sellers felt that rental assistance and a variety of other housing products to be discussed later would make a lot of sense. He suggested a 75%/25% split but not much more.

Agency/Council Member Carr said that it was difficult for him to state that the percentage should be 80%/20%. He felt that this was the right direction to maximize the way the City leverages its dollars. He felt that the City should address moderate income house ownership. He supported the encouragement of higher density housing types to be able bring the cost per unit down. He felt that these were the types of units that the City encourages to first time home buyers. He said that individuals in a smaller unit in a high density area would not be living in said unit for 30 years. He recommended that the Council start looking and providing affordable units for the next generation. He felt that the recommendation was appropriate. He referred to attachment B that states that there are approximately 40 units that this allocation would fund. He would like to see this number increased over a 5-6 year period of allocation, adjusting the percentages to maximize this number.

Agency/Council Member Sellers felt that there were more opportunities for the City to partner with others and new programs to provide first time homebuyers/new ownership housing than has been available in the past. He recommended that this area be reconsidered and investigated to see what can be done. He felt that lenders are starting to realize that individuals cannot afford large down payments and are now lowering the down payments. He would like to see the City pursue these issues.

Agency Member/Council Member Tate felt that the City needs to keep the teacher/public safety priority until such time that the City has made a significant contribution in terms of housing.

Agency/Council Sellers felt that there was a need across the community for affordable housing and that the City cannot afford to ignore the majority of the community.

Agency/Council Member Tate sees the Housing Trust Fund as purely a leverage issue. The City could make an investment if it appears that the City will receive an attractive return.

Action: *It was the consensus of the Council that the Housing Strategy is close to the income target; if possible, increase the number of units and bring down the level of subsidy per unit by encouraging higher density housing; and keeping some priorities for public employees but that there is a need that is broader than this; and that the City would continue its investment in the Housing Trust fund if it will give a return to the community (leverage).*

Mr. Toy reviewed key policy issues as they relate to the BMR program and inquired whether the Council/Agency wants to continue on this path. He indicated that the City has a priority system as follows: A) Morgan Hill Resident for 12 months; B) employed in Morgan Hill; and C) resident of the County.

Council/Agency Member Sellers inquired if there was a legal requirement to allow county residents to apply for BMR units when there is an extensive waiting list for the BMR units.

Mr. Toy indicated that the City's "A" list of low income category has a waiting list of 75 and an interest list of 200+. The B waiting list has 20-30 individuals and 10-20 individuals on the interest list. He said that five years ago there was only a \$25,000 difference between the City's moderate price and the market rate price. Now, there is a huge difference with the City's moderate price being \$300,000 with the similar units being sold at \$450,000 (market rate). He indicated that the City does not have moderate income homes available and is only seeing re-sales. He said that the City may receive 1 moderate resale unit every year or two. There have been some modifications to Measure P and that the City may see some market rate moderate units built.

Director of Community Development Bischoff informed the Council/Agency that the City recently made changes to Measure P and grants points to medium income BMR units. He felt that within the next few years, the City will start to see some additional medium income BMR units.

Council/Agency Member Sellers said that his concern about Measure P is that the City is not increasing the total number of units for moderate, low and very low units. He felt that the City would see bigger, nicer units. He stated that should the number of moderate BMR units goes up, the gap grows.

Action: *It was the consensus of the Council/Agency **to drop** County residents (category C) off the priority list because it leads to false expectations.*

Mr. Toy indicated that there are approximately 75 individuals on the waiting list and over 200 individuals on the interest list for the low income BMR units, indicating that there are approximately 20 units available each year. This would result in a 10-year waiting period. He inquired whether the City should close the interest list until there are turnovers. He clarified that the waiting list does move but that it takes a while.

Action: *It was the consensus of the Council/Agency **to keep** the interest list.*

Mr. Toy said that the Planning Commission wants to know if the City should modify the resale mechanism to allow families who outgrow a BMR unit to take more equity with them to buy into another unit. This would turn the BMR unit over to another first time homebuyer.

Chairman/Mayor Kennedy said that it was his belief that the Agency would put additional money into the BMR unit versus raising the price of the unit.

Agency/Council Member Sellers said that affordable units are not being made available because individuals cannot afford to move up. He felt that the City could find private assistance or other options to allow families to buy up without out of pocket assistance from the RDA.

Vice-chair/Mayor Pro Tempore Chang felt that the City has assisted families in terms of subsidizing housing units. Once the home is resold, the BMR value is increased to a higher value. This would result in a higher housing cost to the next first time home buyer. She felt that Council/Agency Member Sellers suggestion would result in subsidizing a family for a second time.

Council/Agency Member Sellers did not believe that the City could ignore the problem completely, otherwise, individuals who get into BMR units would never move up.

Chairman/Mayor Kennedy inquired as to the history of BMR turnovers and whether there was a dead end path that does not allow for enough appreciation to move up?

Mr. Toy said that the City gets approximately 5-10 resale units per year.

Vice-chair/Mayor Pro Tempore Chang said that for the past five years the City had a problem finding buyers for the moderate BMR units because the housing market was poor. At this time, the housing market has dropped and the differential is large. She felt that at some point, there will be a level where the gap will come closer only if the market comes down.

Action: It was the consensus of the Council/Agency to have this issue return for further discussion.

2. Homeownership assistance for new or existing housing

Vice-chair/Mayor Pro Tempore Chang recommended that there be target toward low income homeownership assistance.

Ms. Seifel clarified that the program would provide assistance to a homebuyer to purchase an existing home on the private market. This could theoretically be a new home that was recently built or could be an older home. It would be a private market home and would not be at a restricted sale price. The market price for existing homes in Morgan Hill tends to be \$400,000+ for a single family home. She indicated that the most a low income person could afford a home at a price of \$170,000-\$200,000. Therefore, there is a gap between \$200,000 and \$400,000.

Mayor Kennedy concurred that more assistance should go toward low income homeownership, such as the purchase of a condominium, duet or the use of a lower sales price.

Council/Agency Member Sellers felt that this would be a good goal but the gap is still too massive. He said that the problem is that it is hard dollars and one cannot afford to qualify for the loan. Therefore, down payment assistance would be necessary for these income levels.

Council/Agency Member Carr stated that he would assume that the gap is even greater. If the ratio is changed, the 30 units would drop and the City would be helping fewer individuals. If the Council/Agency thinks about the entirety of the housing strategy and the recommendations, they are weighted toward low and very low. Before the City gets too concerned about the 80%/20% split on item 2 of 9 recommendations, he felt that the Council needs to work through the recommendations to see if the recommendations reach all different populations. He said that the issue of the balance between #1 and #2 reaches the same individuals and that with a homebuyer assistance program the leveraging is greater in terms of the dollars. He said that the balance would be between how much the City wants to do to support the construction of new affordable housing units and how much the City wants to help individuals purchase units. He felt that the City would be getting more bang for its dollars under this category but that the City also has to have products available. He felt that the Council/Agency should give thought about the mix between the two programs and what is the correct mix. He felt that both programs need to be pursued and that the Council/Agency needs to determine the correct ratio of the two programs to give the City the maximum leverage for the dollars.

3. Special Needs Housing

Ms. Seifel indicated that it is harder to leverage funds with small development and that it is not as efficient to build. If the City wants to attain HUD 202 funding, the federal program that subsidizes the elderly or senior housing, the City needs to have a 50-unit development to leverage these funds and make it efficient to manage the project. For housing targeted for single parents, to persons with special needs, or senior housing the City may want a small scaled housing project and not leverage HUD dollars. She felt that this would be a more expensive program per unit. Does the City want to focus on one priority project with a small number of units, focusing on a HUD 202 senior development, or does the City want to have less funding for this and have a smaller development that may not be as efficient or investigate other opportunities?

Council/Agency Member Sellers noted that it was stated that 7.5% of the community were seniors. He inquired whether this was small in terms of percentages seen.

Ms. Seifel said that nationally, the senior population tends to be between 10-15% and varies from city to city.

Council/Agency Member Sellers felt that with Measure P, it is virtually impossible to build a 50 unit housing project and would exceed the need. As much as senior housing is needed, he did not know how this could be accomplished. He felt that higher density, smaller units can be investigated.

Action: *It was the consensus of the Council/Agency that there is to be less focus on this program, but still have some focus on senior housing.*

Mr. Toy stated that the \$3.6 million allocated also includes any grant funding awarded by the Agency/Council (e.g., senior home repair program, CDBG programs, etc.).

Mayor/Chairman Kennedy noted that staff is recommending 18% for this category and inquired as to the reason.

Ms. Seifel said that the Council/Agency had a combination of existing number of obligations and that this is a high subsidy per unit. She said that a certain size senior development would be necessary to make the project efficient and leverage funds.

Mr. Toy said that this number can be reduced in order to allocate funds to other categories.

4. Affordable New Rental Housing Construction

Ms. Seifel said that the City is focusing on very low and low income housing unit. She added a component for moderate income under this category because she was not sure whether some of this housing can occur in the downtown area. It was recommended that some subsidy be set aside for a higher density development. She was looking at \$3 million at approximately \$50,000 per unit to represent a mix of very low, low and moderate housing units. She said that you can leverage more dollars with very low income but that you would need subsidy dollars for moderate units.

Mr. Toy said that a policy consideration is whether the City wants to target assistance for specific groups. He informed the Council/Agency that there needs to be flexibility in the parking for Royal Court apartments in order to accommodate existing heritage oaks on site and yet provide an increase in density.

Council/Agency Member Sellers felt that parking credit should be given for parking along Monterey Road.

Council/Agency Member Carr said that in talking about an increase in density, he would like to see the 13 townhouses converted into 20-21 townhouses.

Council/Agency Member Tate stated that he needed to understand what the limitations were.

Ms. Seifel indicated that the Council/Agency would need to reserve the amount of funding recommended in order to assist the Royal Court apartment project.

Mr. Toy indicated that funding has been allocated for the Royal Court Apartments in this current year's budget. Therefore, funding does not come out of this number. Funding under this category would be for future project funding.

Mayor/Chairman Kennedy inquired whether the two recent housing projects, First Community Housing and Terracina housing projects moved the City closer to the City's needs.

Mr. Toy responded that staff would need to look closely at the numbers to see what was done in terms of projections and how well the needs were met. Overall, it has put the City closer but that the City has not met the overall needs per ABAG numbers.

5. Rehabilitation programs

Ms. Seifel informed the Council/Agency that the focus of this program was to substantially rehabilitate and help individuals rehabilitate their homes and occupy homes through a non profit or individual program.

Mr. Toy inquired whether the Council/Agency would like to continue the single family rental rehabilitation program as well as the mobile home repair program. He discussed the 80 West Fifth Street and Morgan Hill Apartments. He indicated that staff contacted the property owners, offering grant monies to help them perform minor improvements as well landscape/cosmetic improvements. He informed the Council/Agency that the property owners have not responded to the offer of financial assistance from the City. He requested Council direction on how far to proceed with the 80 West Fifth Street and the Morgan Hill Apartments.

Council/Agency Member Carr Sellers recommended that focus be given to substantive improvements and not as much toward cosmetic improvements. He felt that focus should be on the needs of the residents to make sure that they receive basic fundamental services.

Mayor/Chairman Kennedy felt that staff needs to take these properties to the next level. He did not believe that an inquiry was enough. He did not know what the next level was but felt that more needs to be done.

Mr. Toy indicated that staff has met with the property owners and that in some instances; they do not return staff's phone calls.

Mayor/Chairman Kennedy recommended that the Council/Agency discuss this issue in closed session. He felt that the issue was a lot deeper than the appearance.

Council/Agency Member Sellers said that these units and other places in town are areas where a variety of crimes and other issues take place.

Mayor Pro Tempore/Vice-chairman Chang inquired whether funds could be combined or increased under sections 4 and 5 (Affordable New Rental Housing Construction/Rehabilitation programs).

Council/Agency Member Carr felt that there needs to be some flexibility in funding.

Mayor/Chairman Kennedy supported maintaining the funding at the recommended levels of the rehabilitation breakdown presented.

6. Transit Orientation Development/Downtown Affordable Housing Development

Ms. Seifel stated that the idea of this category was to build on the downtown study recently completed and the transit efforts the City is trying to pursue and to provide some assistance to a larger development in the downtown versus smaller infill projects. She said that it was important to note that the Council/Agency could target any of the other programs toward development in the downtown (e.g., senior development). However, in talking with staff, it was felt that it was important for the downtown to have its own program. She said that it was the thought to potentially encourage mixed income housing, including market income housing.

Mayor/Chairman Kennedy inquired whether these funds could be used to acquire some run down commercial buildings in the downtown and convert them to mixed use associated with housing.

Mr. Toy responded that these funds could be used toward the acquisition of buildings and to convert them into a mixed use project. However, he would have to look at the mix as the City needs to make sure that the affordable housing requirements are met. He clarified that funds could only be used for the residential portion of the mixed use.

Council/Agency Member Sellers said that there were questions regarding Measure P. He felt that the Council should set aside Measure P units for the downtown area. He felt that there were a variety of ways to develop incentives for development of housing units in the downtown area.

Council/Agency Member Tate stated that the Measure P update is mandating a downtown set aside for 2006 through 2010, encouraging more units in years thereafter.

Council/Agency Member Carr felt that there will be a lot of opportunities for smaller infill projects. He understood the cost would be greater to make a project pencil in the downtown. By having this bullet, he was afraid that the City would create more holes in the downtown.

Council/Agency Member Sellers said that it was his belief that the private sector could deal with the small, individual vacant lots. He felt that this was an issue that needs to be monitored.

Mayor/Chairman Kennedy concurred with Council/Agency Member Carr that he could see some small locations benefiting from these funds.

Council/Agency Member Sellers recommended that the Council create the market conditions and provide disincentives for keeping lots vacant.

Council/Agency Member Carr felt that the definition of smaller and larger projects is important in this case. If the Council/Agency is talking about mixed use, the Council/Agency discussed size restrictions in the downtown update plan. If a project does not fall within this, the City may be creating two circumstances that will not match up. This would result in the City not being able to use housing dollars to help these types of projects. He recommended that the Council/Agency makes sure that these issues match in all accounts.

7. Landbanking and Site Assembly

Ms. Seifel inquired whether the Council/Agency wants to put more money into land or produce housing as \$1 million would not go a long way toward landbanking.

Council/Agency Member Sellers stated that he would prefer putting more money toward housing and being creative. He felt that a suggestion was offered in the program option but felt that there may be a variety of other ways to leverage this money to maximize the funds such as partnering with private partners.

Council/Agency Member Carr recommended that the City look at other public agencies in the land that they hold. He felt that there may be changes at the County level as to whether they would be charging fair market values for housing opportunity sites that used to be plan lines for other projects. He felt that there may be opportunities to partner with other public agencies.

Mayor/Chairman Kennedy said that the PG&E property located on West Main Avenue appears to be used as storage for trucks, and a corporation yard in the middle of a residential community. He requested that staff look into acquiring this piece of land for housing purposes.

8. Affordable Housing Preservation

Ms. Seifel indicated that this is a program that was emphasized and discussed. She inquired whether the City wants to continue to extend affordability restrictions or purchase the BMR units. Also, there are some at risk rental units and there are mobile home park preservation issues.

Mayor/Chairman Kennedy recommended that the City try to acquire the Crest Avenue four-plex, leveraging with South County or another entity.

9. Self-Help Affordable Homeownership

Ms. Seifel indicated that this issue was discussed in December 2002 and that there was testimony on this particular issue. Habitat for the Humanity, South County Housing, and California Self Help Housing Program identified their self help programs. She felt that there was some sense that the Council/Agency may want to increase this program. However, there has to be recognition that there is only so much that the non profit organizations can produce each year. This program is targeted toward very low income because this is where these programs are typically targeted and provide sweat equity opportunities to enable very low income households to afford to purchase a home.

Council/Agency Member Carr felt that this was an area that could be considered in combination with landbanking and site assembly where the dollars could be used more effectively. He felt that consideration should be given to the flexibility of combining some of these efforts.

Ms. Seifel summarized that she heard that the Council/Agency is stating that there should not be major changes made to a lot of the programs but to make some refinements along the way, maintaining flexibility with all programs. She said that what has been presented are guidelines and that the Council/Agency would be making decisions.

Mayor/Chairman Kennedy felt that it was important to note that these are guidelines and that staff should not take them as cast in concrete. If there is something that makes sense, staff should pursue it.

10. Other Recommended Actions

Ms. Seifel requested that the Council/Agency identify which programs were near and long term priorities for the nine programs (which program should be focused on first), noting that all nine

programs cannot be fully funded over the next few years. She requested that 3 to 4 programs be identified as being higher in priority.

Mayor/Chairman Kennedy stated that the downtown is a very high priority for him. Also, the affordable new ownership and homeownership assistance is very high in terms of priority.

Council/Agency Member Sellers felt that landbanking, self help and some rehabilitation programs can wait but that the downtown was important.

Council/Agency Member Carr noted that rehabilitation is an on going program and that there was no point in stalling an ongoing program. He felt that homeownership assistance is program-based and that affordable new ownership housing construction and the downtown affordable housing development are both high priority but would be dictated by Measure P.

Mayor Pro Tempore/Agency Member Chang stated that the rehabs would be discussed in closed session and that they were important to her.

Ms. Seifel summarized that the Council has identified the following priorities: affordable new ownership housing, homeownership assistance, rehabilitation, and transient oriented development/downtown affordable housing development.

Council/Agency Member Sellers felt that it was premature to consider amending the RDA plan at this point in time but felt that that it was an issue that would continue to be discussed. He felt that the City needs to implement zoning modifications to address a lot of these issues, particularly, the downtown plan and RPDs in order to provide affordable housing projects. He felt that there were different approaches and different ways that affordable housing needs could be thought about. It was his belief that sometimes Measure P places affordable housing in boxes and that the City does not end up with the best affordable housing or maximizing leverages that the City might have.

Mayor/Chairman Kennedy expressed concern that the City may want to extend the RDA plan for special projects and not rule this out as an option.

Council/Agency Member Tate stated that he has a desire to keep the RDA plan in the context of what Council/Agency Member Carr has asked for in terms of prioritization.

Ms. Seifel said that a point to be made is that the City will be reaching its RDA cap. When the City reaches its cap, it will not have any more housing dollars. This discussion is about all of the housing dollars the City will have if the City does not amend the RDA plan, thus the reason that this recommendation came out. She felt that the City needs to consider an RDA Plan amendment at some point because the City will still need affordable housing.

Mayor/Chairman Kennedy noted that an RDA plan extension is a long process and that the City cannot wait to the last minute to move forward with an extension. He felt that there will be a time that the City will need to start this process.

Action: *The Council **offered** the above comments.*

Action: *It was the consensus of the Council/Agency to consider agenda item 6 at this time.*

City Council Action

OTHER BUSINESS

6. ZONING AMENDMENT APPLICATION, ZA-02-18:COCHRANE – IN-N-OUT BURGER/APPLEBEE'S

Director of Community Development Bischoff presented the staff report.

Mayor Kennedy opened the floor to public comment.

Cynthia Cyber, Morgan Hill resident, said that there is a Morgan Hill population of 34,000 and that she would like to think that citizens have some say as to what comes into town and the choices provided. In what she has read in the newspaper, she did not believe that she was getting the whole story. She felt that there was a bit of an attitude and that there was an underlying agenda going on as to the opposition of In-N-Out going in on Cochrane Road. She felt that Cochrane, Dunne, and Tennant should be addressed as gateways. It was also her belief that Monterey Road was a gateway into Morgan Hill. She felt that citizens of Morgan Hill would like an In-N-Out Burgers in town. She did not believe that the City would find another burger business that would be more aesthetically pleasing than In-N-Out Burgers. She stated that she would like to have a choice. If there were any questions, problems, or concerns, she recommended that the use be put to the vote of the citizens. As an alternative, the City could place a drawing in the Morgan Hill Times asking citizens for their opinion on the establishment locating in Morgan Hill.

Mark Mekiss, 1885 Silverwings Court, indicated that he is the director of research and development at Abbott Laboratories. He stated that as an employer in the area, he brings a lot of out of town guests into the community, housing guests at the Marriott's. He said that the City could use some more sit down restaurants. He felt that the In-N-Out Burger proposal would be a good asset and would be a good benefit for his company and the people that Abbot Labs takes out to eat. He felt that one sit down restaurant was better than none. He would prefer to wait for two different sit down restaurants to choose from.

Mr. Volley, In-N-Out Burgers' representative, stated that he had the opportunity to meet with Mayor Pro Tempore Chang and Council Member Tate along with Mr. Bischoff. He felt that the meetings were very good and that misconceptions were dispelled and that clarifications were in order. He brought renderings of In-N-Out Burgers and Applebee's, indicating that Applebee's would conform to the design of the In-N-Out Burgers. He addressed the landscaping in the Caltrans right of way, indicating that the project would provide a variety of landscaping and would be lush, including berming of up to four feet in elevation. He said that shrubs would be planted on top of the berming with a total height of up to six feet thereby shielding any cars that are nearby the parking lot. He noted that the landscape plan for the site depicts four foot high berming in front in the Caltrans area and also shows the different species of shrubs and trees to be used. He said that one of the members

of the ARB noticed that he proposed numerous 24-inch boxed trees and recommended that one or two be removed because they were spaced too close together and would infringe upon the growth of each one. This was the reason he removed a few of the trees. Another comment was that he was not providing 50% of the landscaping in the perimeter of the In-N-Out Burgers' building as required by the City. It was his understanding that this landscape requirement was offset by decorative paving. However, in meeting with the City Council, In-N-Out Burgers has agreed to include landscape planters that go across the columns and minimum 24-inch potted plants.

Mr. Volley indicated that the architecture for the building has strong roof overhang so that the seating areas are underneath the columns. Therefore, he could not put any landscaping up against the perimeter of the building, noting that this is a shaded area. He hesitated to include landscaping because he wanted a clear path from the vehicles to the seating area on both sides, eliminating all obstacles. However, he would be willing to defer to the City to install additional landscaping in this area. He provided a rendering that depicts the berming and the parking lot. From the street elevation level, individuals would not be looking into a direct sea of cars. He addressed the location of the drive aisle, the entryway and the Caltran's area. He stated that the driveway was moved over 10 feet as an interim solution. He does not see any traffic problems associated with this interim solution until he receives Caltrans approval for the final solution to move the driveway over 10 feet. He stated that he would be willing to comply with the request of the City Council to mitigate anything that would happen if he was not able to obtain the Caltrans' encroachment permit. He referred to condition 9f that talks about the interim driveway required on Cochrane Road. The last sentence states that the necessity and timing for the installation of the interim access driveway shall be determined by the director of public works. He questioned the necessity for this condition because he would be required to comply with condition 9g if he was not allowed to proceed with the construction of the interim driveway.

Council/Agency Member Tate said that he recalled that the berming was not at 4-feet consistently.

Mr. Volley said that the berming tapers down to 3 feet on the other side of the entrance driveway and that it reflects what will be seen coming in from the intersection of the exit ramp and Cochrane and the first 200 feet as you are driving into the site from the exit ramp or from the freeway overpass, looking into the project for the first 100 feet. After this, it will only be a side angle view of someone who is in a car.

Council/Agency Member Sellers requested staff clarification of item 9f.

Mr. Bischoff stated that staff was in agreement with Mr. Volley with the intent of item 9f. The intent was that the interim driveway is to be installed if indeed the right of way from Caltrans cannot be obtained in a sufficient time. He did not believe that elimination of the last sentence would change the requirement.

No further comments were offered.

Mayor Pro Tempore/Vice-chair Chang noted that there was a possibility of 17 cars stacking in the drive thru area that may be viewed from the freeway, a gateway area. She stated that she was adamant of the 30-foot landscape setback requirement in major roadways, noting that this proposal

has three feet of landscaping in some areas. She wanted to make sure that the Council is not bending the rules too much where that the Council was not able to enforce the requirements at a later date. She expressed concern with the 17-car stacking area. She wanted to know whether any berming or landscaping is proposed on the freeway side to screen the view of the vehicles stacking up in the drive thru area.

Mr. Volley indicated that the off ramp and the freeway are at a grade variation difference at almost 30-50 feet. Therefore, freeway traffic will not be able to view the stacking area and that vehicles coming off the freeway should be concentrating on the cars in front of them. He stated that there is already an existing 30-foot undulating landscape area installed in the Tharaldson PUD that includes berming, grass and trees. He indicated that the Caltrans property that goes down the hill is not landscaped.

Mayor Pro Tempore/Vice-chair Chang inquired as to the possibility of moving the Applebee's building further south, closer to Cochrane Road.

Mr. Volley said that he has heard clearly from Applebee's that if the building is to be moved to the north, they would not be part of the development. Also, he does not want to move the building closer to Cochrane Road and block the visibility of the enhanced building that he has promised the City would be built. He felt that the parking circulation works well and that if the building is moved forward, then you have a problem with two rows of traffic not being able to circulate around the building. This would destroy the site plan.

Council/Agency Member Tate stated that he met with the applicant yesterday and that he had his eyes opened in a few areas in terms of the Applebee's design. He stated that he had three areas of concern carried over from the last Council meeting. Even though he agreed that two sit down restaurants are the most desirable uses to have in this vicinity, he convinced himself prior to last week's meeting that it was not feasible to have two sit down restaurants. He stated that he was willing to approve the In-N-Out Burgers but that he was not comfortable that the City was getting too far away from the General Plan and what use was wanted in this area as a gateway. He stated that he was not comfortable moving Applebee's further to the south but that he was told that Applebee's could not make it go as a business as individuals need to see that there are places to park. It was his opinion that it would be more attractive to customers and to the gateway if the building was pulled forward, but noted that this would not be done. He was distraught to hear that trees were going to be eliminated but that he understood that the trees would not be able to survive if they were installed too close. He was pleased to hear that this was the case versus eliminating the trees to make the use more visible. In understanding what the Council approved as part of the PUD, the Council had an obligation to enforce the site as a gateway for the General Plan. In going over the documentation provided, he was concerned about the guidelines that are given to individuals as to what the City wants. He referred to page 5 of the staff report to the Planning Commission. The staff report states that the In-N-Out building is not consistent with the Thoraldson PUD or the City-wide PUD standards (e.g., rooflines, flat rooflines, colors, roof material). The staff report continues to state that the ARB expressed a willingness to support deviations from the PUD/standards if it resulted in a superior building design. He felt that the report states that the City has guidelines that state how the guidelines are to be met and then the ARB states that the design proposed is better than the PUD guidelines. He expressed concern with this fact. He noted that the staff report further

states that the ARB also expressed concern with the PUD design standards imposed on the restaurants and that they do not believe that the standards would achieve a higher quality design expected of the gateway location. As a result, the ARB requested the authority to deviate from the Thoraldson PUD guidelines and the City-wide standards where the deviations would result in a more desirable building design. He stated that this is the frustration that Mr. Volley has had in working through the process. When he appeared before the ARB, the Board told him that he was right that the PUD Guidelines did not work. He felt that the Council needs to clarify for the other gateway areas what the standards are so that they are consistent between what is written down and what the ARB believes is the right design.

Council Member Tate stated that he has spoken to many citizens in the community and that he has found that this is a very much a black or white issue. An individual is either for maintaining the gateway or supportive of the In-N-Out Burgers, noting that there are a lot of individuals who would like to see an In-N-Out Burgers. He understood the need and the benefit of having a variety of restaurants and that he did not believe that it would substantially increase revenues to the City from the In-N-Out Burgers but would move things around a little bit. However, the application would give the City one sit down restaurant and felt that this was a good start.

Mayor/Chairman Kennedy said that over the past week, many individuals have approached him requesting support for the In-N-Out Burgers and Applebee's/sit down restaurant. He said that often, when the City approaches good sit down restaurants or big box retailers, they always draw a map around Morgan Hill and state that the five-ten mile radius does not draw enough population and that when they draw the radius around Gilroy, it does. He has heard from one individual in the business community that if the City ever wants to get a sit down restaurant in the community, the City has to provide an incentive for the first sit down restaurant to come into the community. He felt that this was the opportunity to do so as In-N-Out Burgers would help foot the bill to make this work. He felt that there will be a lot of customers who will stop in the area for In-N-Out Burgers and would not be drawing significantly from other fast food restaurants. He supported the use for its attraction, it would provide some additional revenue, and would help to bring in a sit down restaurant. He strongly recommended that the Council move forward with this project.

Council Member Carr said that this has been a difficult and challenging issue for everyone. He said that he was able to remove the burger argument from the issue. He did not believe that this was an issue about who cooks a better burger or provides a better fast food service. He stated that this is a land use issue. Perhaps, what the Council is facing today is the economy, noting that the make up of the Council is different than when the PUD was put into place many years ago. He too would like to see two sit down restaurants because this is what Morgan Hill needs but that he did not know what the reality if this would be. He was struggling with the value of changing the PUD from what the Council at the time thought that the community needed and the value of changing it from two sit down restaurants to one sit down restaurant and a second restaurant with a drive through. He was pleased to hear that some of the landscape issues were clarified for his colleagues because he knew that this was an important issue. He has visited the site and drove the off ramp and confirmed that an individual is 30 feet below the line of cars and that there is existing landscaping. He felt that the stacking lane was well screened. Having a private entity take over the Caltrans property and landscape it would help improve the gateway to Morgan Hill. As a member of the General Plan Update Task Force, the Task Force spent a lot of time talking about gateways. He noted that the

General Plan identifies six gateways into Morgan Hill. He understood that the Gateway states that no drive throughs are allowed in gateway areas. However, the more he gives this issue thought, he did not know now where else these businesses can go. He stated that he did not want to see drive through establishments in the downtown nor the Monterey corridor between Dunne and Tennant Avenues. He would support revisiting the gateway PUD guidelines because of the struggles the Council has experienced and the struggles it has had in the past and would have in the future with the at Tennant Avenue PUD. He felt that the City would be receiving value from the development being proposed. The value of increasing the landscaping and the value of increasing the traffic flow for the entire site would be the benefit of trading off the PUD that required two sit down restaurants. Therefore, he would support the development this evening.

Council Member Sellers felt that it was good that the City held out/held its ground and was pleased with the consensus that appears to be forming to move forward with this application.

Action: *On a motion by Council Member Sellers and seconded by Mayor Kennedy, the City Council unanimously (5-0), **Waived** the Reading in Full of Ordinance No.1616, New Series Approving Zoning Amendment to approve a 3,253 Square Foot Drive-Thru Fast Food Restaurant and a 5,000-6,000 Square Foot Sit Down Restaurant.*

Action: *On a motion by Council Member Sellers and seconded by Mayor Kennedy, the City Council unanimously (5-0), **Introduced** Ordinance No. 1616, New Series, by title only, as follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO THE THARALDSON PLANNED UNIT DEVELOPMENT (PUD) AND PRECISE DEVELOPMENT PLAN TO REPLACE TWO SIT DOWN RESTAURANTS (6,300 SQUARE FOOT AND 8,000 SQUARE FOOT IN SIZE) WITH A 3,253-SQUARE FOOT DRIVE-THRU FAST FOOD RESTAURANT AND A SIT DOWN RESTAURANT 5,000 TO 6,500 SQUARE FOOT IN SIZE. (APNs 726-33-023 & 024)(ZA-02-18: COCHRANE-IN-N-OUT BURGER/ APPLEBEE'S), deleting the last sentence of Section 9f of the Development Agreement by the following roll call vote: AYES: Carr, Chang, Kennedy, Sellers, Tate; NOES: None; ABSTAIN: None; ABSENT: None.***

Mayor Kennedy felt that the comment that Council Member Sellers made was correct and that the Council held out for an exceptionally good quality project. He thanked the In-N-Out Burger representatives for all of their hard work and stated that the Council appreciates the good quality product that has been approved.

Council Member Tate felt that from an economic development strategy stand point, the City has put the applicant through the ringer more than it needed to. He felt that the priority of economic development strategy has been raised in priority.

City Council Action

OTHER BUSINESS

5. A REPORT ON THE OPERATIONS OF THE CITY'S DOMESTIC WATER SYSTEM

Director of Public Works Ashcraft presented the Council with an overview of the City's water operations.

Mayor Kennedy opened the floor to public comment.

Cindy Gobin requested that the Council authorize a test garden to find out how much perchlorate is contained in the items that are grown. She expressed concern that even if the wells test less than 4 parts per billion (ppb), dark green leafy vegetables soak up the perchlorate at 50 times the rate in the water.

City Manager Tewes said that he has made it known to the community and as a reminder that on May 3, 10:00 a.m., the Regional Water Quality Control Board will be conducting a community meeting at Gavilan College. In attendance will be individuals who are experts on the issues of the effect of perchlorate on human health, agricultural products and life stock. There have been recent stories that there are considerable scientific studies underway to try to find out the impacts. He indicated that by January 31, 2004, the State Department of Health Service has to establish a maximum contaminate level for perchlorate and the effects it has on plants and animals as well as domestic use. To his knowledge the City does not deliver any water to agricultural customers from domestic wells. However, studies are underway for large agricultural holdings and that these results will be critical to the establishment of the MCL.

Ms. Gobin stated that these studies do not address her concerns. She said that she will be attending the community meeting on Saturday and that it was her understanding that there will be several individuals in attendance with information about all the ways that perchlorate may affect her health, the health of her children and the health of everyone else who resides in the area. However, it does not address the issue of how much perchlorate are in gardens that Morgan Hill residents plant in their backyards. She expressed concern that perchlorate may not exactly affect the City of Morgan Hill but that the community has a Saturday farmers' market that is filled with people who reside in San Martin who come and sell their produce. She would not know if it is safe to eat produce without testing the produce that is grown with water from the area. She stated that she would not plant a garden in her backyard if she does not know if it is safe as it is not a risk that she wants to take. She felt that it would be simple to plant a test garden to determine if there were any traces of contaminant in the produce.

Mayor Kennedy stated that Morgan Hill's domestic water does not contain perchlorate in it and that the City has removed any wells that have detected perchlorate.

Mayor Pro Tempore Chang did not believe that a test garden was necessary as there are individuals who have gardens planted. The plants can be taken to a place to be tested for perchlorate.

Ms. Gobin felt that it is the City's responsibility to find an existing garden so that the City can tell the community whether it is safe to grow a garden.

Mayor/Chairperson Kennedy reconvened the meeting at 11:09 p.m.

CLOSED SESSION ANNOUNCEMENT

City Attorney/Agency Counsel Leichter announced that there was no reportable action taken in closed session.

FUTURE COUNCIL-INITIATED AGENDA ITEMS

ADJOURNMENT

There being no further business, Mayor/Chairperson Kennedy adjourned the meeting at 11:10 p.m.

MINUTES RECORDED AND PREPARED BY

IRMA TORREZ, City Clerk/Agency Secretary